

California State University, Bakersfield Section 504 Grievance Procedure**

California State University, Bakersfield, has adopted an internal grievance procedure providing for prompt and equitable resolution of complaints alleging any action prohibited by the Americans with Disabilities Act (ADA) and Section 504 of the Rehabilitation Act of 1973, as amended (29 U.S.C. 794). Section 504 states, in part, the "no otherwise qualified handicapped individual ... shall, solely by reason of his (her) handicap, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving federal financial assistance".

Students who believe there has been discrimination because of a disability are encouraged to discuss the matter with the University 504 Compliance Officer, Marcus Brown, J.D., Director of Equity, Inclusion, and Compliance. Mr. Brown is located in the President's Office, BDC E100. If such discussions do not resolve the matter, the person may then initiate a formal grievance. An ADA/504 Grievance Committee will be established for the purpose of informal but thorough investigation of complaints of discrimination on the basis of disability. All persons who have self-identified with a documented disability are covered by this procedure.

FORMAL GRIEVANCE PROCEDURE:

- 1) To initiate a formal grievance, a complaint should be filed in writing by completing the attached 504 Student Grievance form and presenting it to the 504 Compliance Officer. The 504 Compliance Officer may assist the grievant in completing the form, but shall not serve as an advocate for the grievant.
- 2) A complaint should be filed within 180 days after the date of the alleged violation. (Processing allegations of discrimination which occurred prior to the adoption of this grievance procedure will be considered on a case-by-case basis).
- 3) The grievance process described in steps 4, 5 and 6 shall be completed within fifteen academic days of the official filing.
- 4) The 504 Compliance Officer shall conduct an initial review of the grievance to determine if the complaint is valid. It is considered valid if it:
 - a) alleges facts, which, if true, would demonstrate a violation of the 504 regulations;
 - b) addresses a violation, which, if it exists, results in a wrong to the grievant;
 - c) contains allegations that appear to be substantially credible;
 - d) was filed in a timely manner; and
 - e) is not frivolous.

- 5) If the complaint is determined to be valid, the 504 Compliance Officer shall conduct a thorough investigation, specifically affording the respondent(s) the opportunity for a response and submission of relevant evidence.
- 6) The 504 Compliance Officer shall issue to the grievant and respondent a written determination concerning the validity of the complaint and a proposed resolution, if any.
- 7) If the determination and/or resolution is accepted in writing by the grievant, the grievance is terminated.
- 8) If the determination and/or resolution is not acceptable to the grievant, he/she may ask within five academic days for a reconsideration of the complaint by a five person 504 Grievance Committee consisting of:
 - Two students with disabilities;
 - One or two full-time faculty and
 - One or two full-time staffThe exact composition shall be determined by the respondent's position, (i.e., if a staff member is the respondent, two staff members and one faculty member shall serve in addition to the two students with disabilities).
- 9) Within five days, in the presence of the grievant and respondent, the 504 Compliance Officer shall select the panel members from the appropriate lists of students with disabilities, full-time faculty, and full-time staff. The grievant and respondent may challenge any person appointed to the committee for cause up to 48 hours before the first meeting of the panel. The 504 Compliance Officer shall rule on all challenges for cause.
- 10) Within five days of the panel selection, the 504 Compliance Officer shall schedule a meeting of the grievance committee. That committee shall elect its own chair, schedule all subsequent meetings, notify participants of meeting locations and times, maintain records and submit in writing the findings and recommendations of the committee to the 504 Compliance Officer.
- 11) The panel shall first conduct a review of the validity of the complaint, using criteria of section 4a-e above.
- 12) If the panel decides the complaint is not valid, it must terminate the grievance and notify the grievant, respondent, and the 504 Compliance Officer of its decision. The grievant may appeal this decision to the president. His/her ruling shall be final.

- 13) If the panel decides the complaint is valid, the grievance panel shall notify the grievant, respondent, and 504 Compliance Officer of its decision to schedule a hearing. The first session of the hearing shall occur within five academic days of this decision. All hearing sessions shall be closed. All committee members, the grievant and respondent shall be present at each session. Either party may have an advisor other than a lawyer present. Either may call witnesses. In addition, interpreters or other service providers may be present to aid those with disabilities which impair the communication process.
- 14) Within five academic days of the close of the hearing, the committee shall issue its determination. It will make a recommendation to the 504 Compliance Officer, grievant, and respondent concerning relief. (If the recommendation involves a change in campus policy, however, it will first be sent to the president. He/she may accept or reject or modify the panel recommendation.) The proposed relief need not be limited to that requested by the grievant.
- 15) If the resolution is accepted in writing by the grievant, the grievance is terminated.
- 16) If the resolution is unacceptable to the grievant, he/she may appeal the decision to the president who may accept or reject or modify the recommendation. The president's decision shall be final.
- 17) During any step in the grievance procedure, the grievant has the right to resolve the issue informally and terminate the formal proceedings.
- 18) The right of a person to a prompt and equitable resolution of the complaint filed hereunder shall not be impaired by the person's pursuit of other remedies such as the filing of an ADA or Section 504 complaint with the responsible federal department agency. Utilization of the CSUB 504 Grievance Procedure is not a prerequisite to the pursuit of other remedies.
- 19) Individuals involved in a 504 complaint should not suffer any disadvantage, discrimination, or reprisal as a result. If this is alleged, the 504 Compliance Officer shall investigate and take all necessary steps for corrective actions.
- 20) These rules shall be construed to protect the substantive rights of enrolled students with disabilities, to meet appropriate due process standards, and to assure that California State University, Bakersfield, complies with Section 504 and implementing regulations.

DEFINITIONS

Section 504 Regulations:

The administrative regulations adopted by the Department of Education pursuant to Section 504 of the Rehabilitation Act of 1973, as amended (P.L. 93-112; P.L. 93-516). Copies are available for inspection in the office of the 504 Compliance Officer, Education Building, Room 251.

Student:

A person who has enrolled and been admitted through admission procedures of the university. Student also means a person who is considered a continuing student pursuant to campus regulations.

Grievant:

A person who alleges that a wrong has resulted from an alleged violation of the Section 504 Regulations.

Grievance:

A complaint filed by one or more grievants which alleges a violation of one or more provisions of the 504 Regulations.

Respondent:

The faculty or staff person, who, according to the grievance, violated 504 Regulations.

President:

The campus president or the designee of the campus president.

****Alternate format materials available upon request**